



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

20 OCT 2005

Mr. Danny McClendon
Chief, Regulatory Branch
St. Louis District Army Corps of Engineers
1222 Spruce Street
St. Louis, MO 63103-2833

Dear Mr. McClendon:

RE: Howard Bend Floodplain Final Environmental Impact Statement for Purposes of Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA)

The Environmental Protection Agency (EPA) has reviewed the Final Environmental Impact Statement (FEIS) for the subject proposal. Our review is provided pursuant to the National Environmental Policy Act (NEPA) 42 U.S.C. 4231, Council on Environmental Quality (CEQ) regulations 40 C.F.R. Parts 1500-1508, and Section 309 of the Clean Air Act (CAA). The DEIS was assigned the CEQ number 20050373.

The DEIS for this action was rated as Environmental Concerns - Insufficient Information (EC-2) in June of 2004. The FEIS does not appreciably add to the information that was presented within the DEIS, and therefore, some of EPA's concerns continue to exist.

EPA does support the concept of holistic planning - which is an objective of a SAMP, however, EPA believes that there are several issues needing resolution, or further study, prior to undertaking a SAMP approach, in particular:

1. The bold text on page ES-1, (indicating changes in "present and reasonably expected actions" in only 14 months) reveals the degree of uncertainty in development options and validates the need for a thorough cumulative assessment as each increment of Waters of the U.S. becomes subject of a CWA 404 application. This uncertainty of development also argues against a SAMP evaluation frequency of every 5 years.
2. EPA notes the Corps' interest in "participating with other resource agencies in a comprehensive study of the lower Missouri River." (see FEIS, page 1-10) We look forward to the initiation of discussions on such a study.

3. EPA disagrees with the Corps belief that an uncompleted 500 year +3 foot (of freeboard) levee represents a baseline condition. Until the mainline levee and flank levees are completed (including under seepage controls and pump features), hydrologic equilibrium will be in flux.

4. The rapid tempo of floodplain development within the St. Louis metropolitan area confounds the utility of a SAMP. Cumulative diminishment of flood storage/flood conveyance within the floodway (outside of the Howard Bend study area) may limit the range of interior drainage/flood control alternatives that can be considered.

5. The Corps believes that FEMA FIRM profiles are incorrect (refer to Response to Comment Letters). Since the Corps belief is that the actual profiles are higher than the existing published FIRM profiles, the potential impacts at the higher profile should be determined.

6. The FEIS at page 2-4 indicates that the St. Louis Corps will develop a functional assessment method for mitigation planning in the proposed Howard Bend SAMP area. The current Missouri Mitigation Coordination Team, which is comprised of federal and state agency representatives in Missouri, including those from the St. Louis Corps and EPA, Region 7 offices, has initiated discussions on the development of functional assessment tools for the state. The general plan is to dedicate Team energy into the development of such tools, although to date there has not been a particular focus on their development focused around Howard Bend. To ensure consistency and subsequent success of a functional assessment tool(s), we recommend that any tool development for Howard Bend be incorporated into the broader Team discussions.

7. The FEIS at page 2-4 further provides a wetland mitigation ratio scheme that would be used at Howard Bend in the absence of functional assessment tool. We support the Corps' approach for establishing such minimum ratios for different wetland types and your willingness to include a rationale for increasing such ratios when warranted. However, the FEIS is silent on what information would be considered as part of such a rationale. Based on state-federal interagency discussions that resulted in development of the "State of Missouri Aquatic Resources Mitigation Guidelines," (Guidelines) we believe that, if the Corps proceeds with the implementation of the Howard Bend SAMP alternative, the alternative should include considerations from the Guidelines that provide rationale for increasing mitigation ratios. Those considerations are as follows:

- a. Mitigation is not conducted before or concurrently with a development project.
- b. Out-of-watershed mitigation is proposed.
- c. Projects impact functioning mitigation sites.
- d. Other relevant circumstances make increases in the ratio appropriate.

In addition to the above considerations, we recommend adding the following consideration: A non-mitigation wetland (or stream) site is recognized as providing a high level of one or more functions (e.g., water quality improvement, fish/wildlife habitat, groundwater recharge, etc.).

8. The FEIS at page 2-4 also indicates that the minimum ratio for forested wetland would be 1.5:1. This is inconsistent with the above referenced Missouri Guidelines. Due to the significant lag time in developing functioning forested wetlands, EPA recommends that the minimum mitigation ratio be increased to 2:1 for forested wetlands in any Howard Bend SAMP.

9. Stakeholders envisioned to be a party to SAMP development are not identified, nor are the roles of those stakeholders outlined (Sec. 4.8.3.6). EPA has a long history of involvement with the Corps across the Nation on wetland planning projects, including advanced identification (ADID) and SAMP projects. In the event that the St. Louis District Corps resolves the above issues and proceeds with the proposed SAMP for Howard Bend, EPA would share our accumulated experience with these planning projects.

EPA commends the Corps in considering ways to comprehensively manage the CWA 404 permit process, and to promote comprehensive watershed management. However, until issues presented above are resolved, EPA would recommend selection of the no-action alternative. If the no-action alternative is selected, then the work completed through this NEPA review might be beneficially utilized to expedite the individual permit process through tiered Environmental Assessments when coupled with the additional management assistance of the Cities (Maryland Heights and Chesterfield) as described in Section 2.1.2, page 2-6 (Permit Process).

If you have questions about these comments, or require further assistance, then please contact Mr. Joe Cothorn, NEPA Team Leader, at (913) 551-7148.

Sincerely,

A handwritten signature in black ink, appearing to read 'U. Gale Hutton', written over a horizontal line.

U. Gale Hutton
Director
Environmental Services Division

